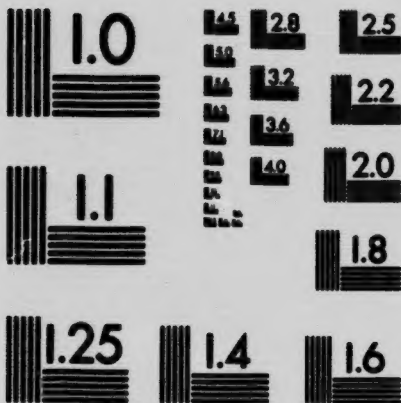




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Thompson, Joseph A

REPORT

of

Joseph A. Thompson

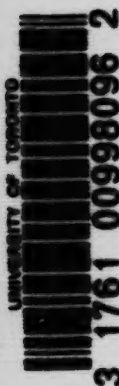
to

The Committee

Concerning the property in the vicinity of

No. 47 QUEEN'S PARK

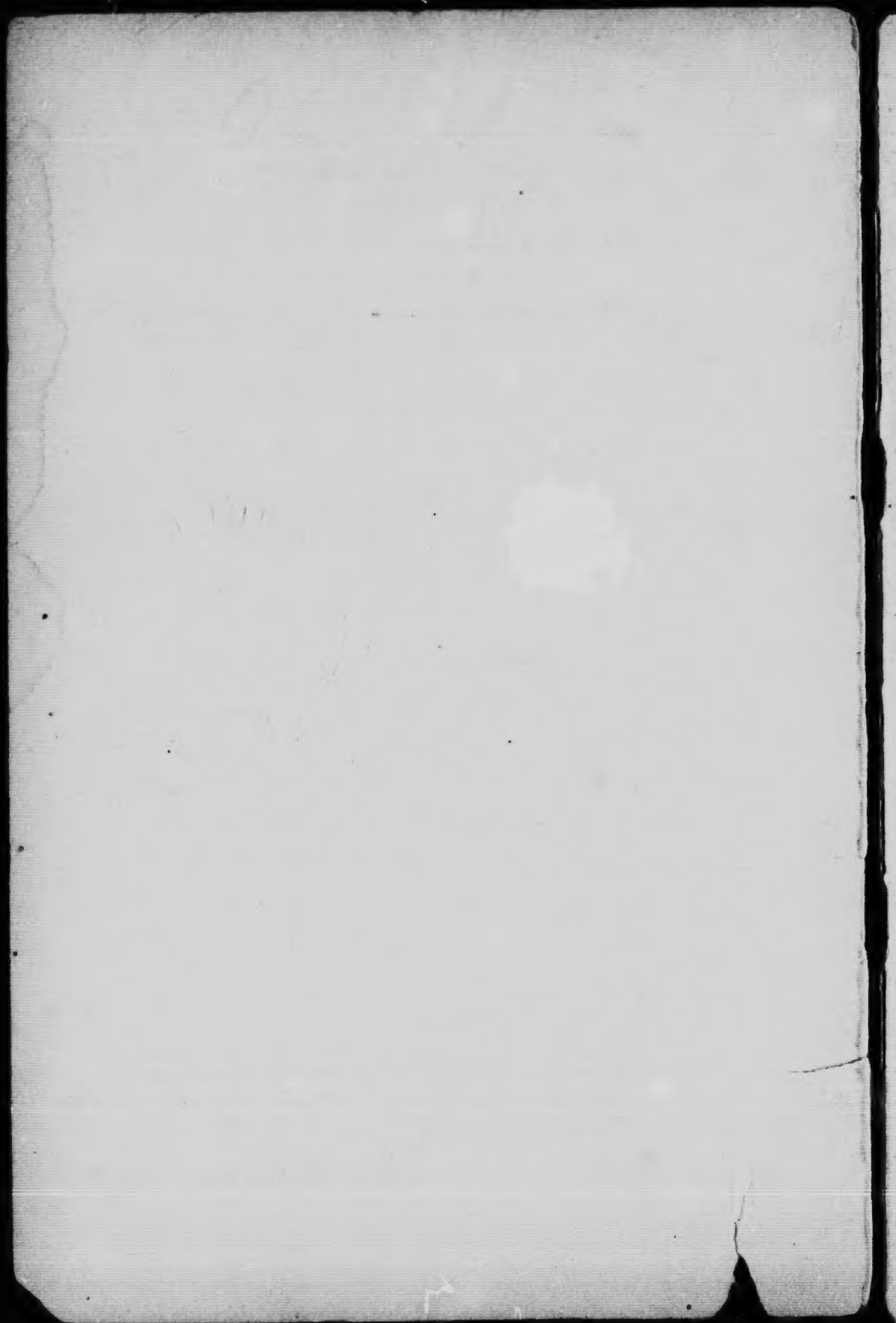
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Aylesworth, Wright, Thompson & Lawr



REPORT OF JOSEPH A. THOMPSON
THE SECRETARY OF THE COMMITTEE,
TO THE CHAIRMAN
AND THE MEMBERS OF THE COMMITTEE
CONSISTING OF

(1) THE CORRESPONDENCE BETWEEN THE SECRETARY AND THE MINISTER AND DEPUTY MINISTER OF PUBLIC WORKS;

(2) THE COPY OF THE LEASE FROM THE BURSAR OF THE UNIVERSITY AND COLLEGES TO REUBEN MILLICHAMP;

(3) THE ASSIGNMENT OF THE LEASE FROM JOHN P. NORTHEY TO HIS MAJESTY;

(4) THE CONSENT OF THE GOVERNORS OF THE UNIVERSITY TO THE ASSIGNMENT.

TORONTO, Sept. 28th, 1920.

DEAR SIR:

A meeting of the owners and lessees of the property in the vicinity of 47 Queen's Park will be held at Newman Hall, 97 St. Joseph Street, on Wednesday evening, 29th inst., at 8 p.m.

The property at 47 Queen's Park has been held for about thirty years under the residential lease—the lessee has recently transferred this lease—and the present tenant is engaged in the conversion of the residence into public offices, and is proposing to enlarge the garage for one car into a garage for twelve or more cars.

The purpose of the meeting will be to ascertain the general sentiment of the neighbors in the vicinity, and to consider whether a protest should be made against the conversion of a residential lease into a lease for public offices, and the enlargement of the garage from the line of the street across the property.

A copy of the lease will be produced and the provisions of the residential lease will be considered—and we hope you can arrange to be present at the meeting.

Yours faithfully,

WM. LAIDLAW.
JOS. A. THOMPSON.

TORONTO, Sept. 30th, 1920.

THE HONOURABLE F. C. BIGGS,
Minister of Public Works.

DEAR SIR:

A meeting of the owners and lessees of property in the vicinity of 47 Queen's Park was held last evening to consider the notice hereto attached (and hereinbefore printed).

The sentiment of the meeting was against the conversion of the private residence into public offices and the extension of the garage, and the meeting appointed a committee to act for and represent the owners and lessees.

The building lots in Queen's Park have all been leased by the Bursar of the University and Colleges to the lessees under an established standard form of residential lease; and the lessees respectfully submit that the lease of 47 Queen's Park should not be varied or departed from.

They inform the Committee that they have not received any notice of an actual intention to convert the residence into a public office, or to extend the garage.

I have been appointed Secretary for the Committee, and they respectfully request an appointment to be made to hear the objections of the lessees to any change of the terms of the lease. I will, therefore, deliver this letter to your private secretary and the messenger will wait for an answer.

The Committee will be well pleased to meet the representatives of the Government at the earliest appointment which can be made for that purpose and to-morrow if possible.

I have the honour to be,

My dear Sir,

Your obedient servant,

J. A. THOMPSON.

ONTARIO
DEPARTMENT OF PUBLIC WORKS,
MINISTER'S OFFICE.

TORONTO, Sept. 30th, 1920.

JOSEPH A. THOMPSON, ESQ.,
Bank of Hamilton Chambers,
Toronto, Ont.

DEAR SIR:

Re 47 Queen's Park.

I have to acknowledge yours of even date in reference to the use of No. 47 Queen's Park by the Ontario Government, and in reply have to say that it is not the intention of the Government to make any change in the exterior of the garage; the only alteration to the residence is to make a small extension of the present kitchen to provide a hearing room for the Ontario Railway and Municipal Board and to make provision for a vault for the records.

These alterations will not impair the appearance of the building, which will retain its character as a residential building. The Government propose to use the building exclusively for the Ontario Railway and Municipal Board temporarily until such time as a Departmental building is constructed.

I will be pleased to meet the Committee to give any further information regarding the use of the building but will be absent from the city to-morrow to keep a previous engagement, but early next week would be able to make a definite appointment for meeting.

Yours very truly,

F. C. BIGGS,

Minister of Public Works

TORONTO, Oct. 2nd, 1920.

THE HONOURABLE F. C. BIGGS,
Minister of Public Works.

DEAR SIR:

Lot 47 Queen's Park.

I received your letter of 30th ult. and I regret the unavoidable delay for an appointment to hear the objections of the Committee. The owners and lessees, and representatives of owners and lessees, have strong convictions against the conversion of the district from a

residential district into a public office district, and against the extension of the garage to more than one car.

I enclose—for your immediate and ready reference—a certified copy of the lease, dated the 17th day of January, 1887. The original lease was approved by the Government represented by the Minister of Education—and was executed by the Governors of the University represented by the Bursar—and by Reuben Millichamp, the original lessee. A copy of this lease was produced and read to the meeting, and I respectfully request you to consider the recitals and the covenants, and amongst others, the prohibition “of the use of the land or buildings for any object or purpose whatever other than for the dwelling-house and premises or for any purpose which shall prejudicially affect the value of the same or of the surrounding or neighboring land or buildings.”

Notices of the meeting were not given to any lessee south of St. Alban Street, and my authority as Secretary of the Committee is therefore limited to the leases north of St. Alban Street. The leases of these lots are all in the same standard form of residential leases, and the honor and good faith of the Government—of the Governors of the University—and of all the lessees of all these building sites with frontage on the roadway—and of any assignee under a lease, are pledged to the observance and performance of the terms and conditions therein mentioned.

No notice had been given to, and no consent had been requested from, any of the lessees represented at the meeting for any derogation from or any waiver of these terms and conditions, and I do not suppose that anyone would claim that an assignee under the original lease to Reuben Millichamp would have any higher right than Reuben Millichamp would have.

I received instructions from the Committee to arrange with you for an immediate appointment, and I therefore cannot allow time to elapse and work to proceed without formal notice to you and a protest against the conversion of 47 Queen's Park from a private residence into public use, and against any extension of the garage without the consent of the lessees.

The sentiment at the meeting was strong and decisive, and the lessees who were present and represented at the meeting will not submit to any permanent variation or departure from the terms and conditions of the leases. They respectfully claim that the leases involve the mutual

and respective rights and obligations of all the parties, but I am authorized to state to you that the lessees would consent to a reasonable temporary public use of the private residence upon the understanding and condition that the consent would not interfere with, affect or prejudice the rights or obligations under any of the leases.

The Ontario Railway and Municipal Board is a judicial body with judicial power, subject to appeal, and the location of offices which would be adjacent to Osgoode Hall or the City Hall would be a great public convenience.

I have referred to the University Act, Revised Statutes of Ontario, chapter 279, and to section 12, which declares that the land in question adjacent to the Park and vested in the Board shall be subject to the police regulations of the City, and the council—and the by-laws,—and to section 15, which declares that the land vested in the Board is not subject to compulsory expropriation; and to section 12, constituting the Board of Governors a body corporate; and to section 32, which gives a power to the Board to purchase and acquire all such property as the Board may deem necessary for the purposes of the University or University College, or either of them, and this power shall include that of purchasing the interest of any lessee for the use of the students of the University or University College.

These powers under section 32 have not been exercised, and the Committee do not suppose they will be exercised for several years.

It appears to the Committee from the examination of the old statutes, orders and plans approved by the executive government that a large district has been appropriated for educational purposes, and that the leases and the rights and obligations under the leases have been intended for educational purposes, and not for legislative purposes.

The disapproval of any derogation from the lease of 47 Queen's Park was strong and decisive; and I have therefore been authorized to offer to purchase the rear of No. 47 Queen's Park and to undertake the payment of the proportionate rent and the payment of the proportionate taxes, and to remove the garage altogether and replace it with a private residence on a plan subject to the approval of the Governors of the University.

I will on my part be well pleased to facilitate a reasonable arrangement for the temporary public use of

the residence upon the condition that the rights and obligations under the leases will not be varied or departed from until the land may be required by the Governors of the University for educational purposes.

I will be pleased to hear from you in the usual course of mail.

I have the honor to be,

Yours faithfully,

J. A. THOMPSON.

October 4th, 1920

THE HONOURABLE F. C. BIGGS,
Minister of Public Works.

DEAR SIR:

In Re 47 Queen's Park.

I have not received either acknowledgment or answer to my letter of last week to you, in which I stated the grounds of opposition of the owners and lessees of the property in the vicinity of 47 Queen's Park against the conversion of the residential lease into a public office lease, and against the extension of the use of the stable.

The executive committee require a report from me, and I wish that you would be pleased—and as soon as possible—to advise me whether you desire to continue negotiations for a temporary lease, and oblige,

Yours faithfully,

J. A. THOMPSON.

ONTARIO
DEPARTMENT OF PUBLIC WORKS
OFFICE OF THE DEPUTY MINISTER

TORONTO, October 8th, 1920.

JOSEPH A. THOMPSON, ESQ.,
Barrister, etc., Bank of Hamilton Bldg.,

DEAR SIR:

Re No. 47 Queen's Park.

I am directed by the Honourable the Minister of Public Works, to reply to your letter received the 4th inst., in reference to the use by the Government of house No. 47 Queen's Park, for accommodation of the Ontario Railway and Municipal Board, and to assure you that the garage will not be for the daily use of many cars. It

will be used principally for the storage of cars during the winter season, and at other times. No extension of the garage building is contemplated, and its use by the Government will not be any greater than when the house was occupied as a residence. The covenants of the lease will be observed in essence. The character of the building will not be changed, the house and grounds will be maintained in keeping with its position in the Park, and will not prejudicially effect the value of the neighboring lands and buildings. The site was selected for the temporary use of the Ontario Railway and Municipal Board, because of its proximity to the Parliament Buildings, containing the Library and other Departments to which the members make frequent reference.

I am advised that Section 15 of the University Act, to which you make reference, does not take the power from the Minister of Public Works, to expropriate the land for the public use of the Province, the section is limited to the right of its appropriation by Municipal or other Corporations, or persons.

The offer to purchase the rear of No. 47 Queen's Park is evidently made through some apprehension that the garage will be operated in a manner that will be disturbing to the quiet of the neighborhood. The Government will give assurance that such will not be the case. A visit to the building and garage will, I am sure, convince your Committee that they should have no fear as to the use that is to be made of the buildings by the Government.

Yours truly,

R. P. FAIRBAIRN,
Deputy Minister Public Works.

F-K.

TORONTO, October 13th, 1920.

R. P. FAIRBAIRN, ESQ.,
Deputy Minister of Public Works,
Toronto.

DEAR SIR:

Re 47 Queen's Park.

I received your letter dated 8th inst., yesterday, the 12th inst., and I wish to give you immediate notice that I have no authority to deviate from the terms and conditions of my first letter to the Minister, and I would on very short notice attend with some of the members of the Committee at the office of the Minister to consider reasonable terms and conditions for the temporary use of 47 Queen's Park for a public office.

I may, however, state to you that there will be serious objection to any entrance to a public office from St. Joseph Street, or to the parking of cars on St. Joseph Street, or to the use of the stable for more than one car.

All that I can say at the present time is that I will try to reconcile differences. I have no authority to argue any questions which may appear to you to be contentious questions upon the rights and obligations of the Board of Governors of the University, of the Government, and of the lessees having a frontage on the roadway on Queen's Park.

It appears to me at the present time that it would be advisable for the Minister to make an appointment—and as early as possible—for the consideration of the terms and conditions of a temporary lease, and if terms cannot be arranged which would be acceptable to all parties I would hand over the correspondence and copies of the leases to Counsel to take such proceedings as they might advise to be taken in the interest of the owners and lessees in the vicinity of 47 Queen's Park.

I should like to receive an answer in due course of mail.

Yours faithfully,

J. A. THOMPSON.

ONTARIO
DEPARTMENT OF PUBLIC WORKS
OFFICE OF THE DEPUTY MINISTER

TORONTO, October 16th, 1920.

JOS. A. THOMPSON, ESQ.,
Barrister, etc., Bank of Hamilton Bldg.,
Toronto, Ont.

DEAR SIR:

Re 47 Queen's Park.

I have to acknowledge yours of the 13th instant in reference to 47 Queen's Park and in reply beg to say that the Minister will not be in the City before Wednesday of next week, the 20th instant.

I will be glad to arrange a meeting of any parties interested, with the Minister at his convenience. I may add that nothing further can be said in reply to your letter than is contained in our letter of October 8th, and the former letter of the Minister.

Yours truly,

R. P. FAIRBAIRN,
Deputy Minister of Public Works.

TORONTO, OCTOBER 22nd, 1920.

R. P. FAIRBAIRN, ESQ.,
Deputy Minister of Public Works,
Toronto.

DEAR SIR:

Re 47 Queen's Park.

I received your letter of 16th inst. on the 19th inst. containing the proposal—

"I will be glad to arrange a meeting of any parties interested with the Minister at his convenience. I may add that nothing further can be said in reply to your letter than is contained in our letter of October 8th and the former letter of the Minister."

It appears to me that a serious difference may arise between the lessors and the lessees, and between the lessees and the assignee of the lease of 47 Queen's Park. It will therefore be my duty as Secretary for the Committee to state the case for your further consideration, and for that purpose I refer to the letters mentioned by you, namely:

The letter dated 30th September, 1920, from the Minister of Public Works to me; and the letter dated 8th October, 1920, from the Deputy Minister to me.

These letters are both printed in full on the preceding pages.

I have perused these letters and referred to my letter of 30th September last to the Minister, and I come to the conclusion that I have no just cause to call a meeting of the Committee at the present time.

The leases contain (amongst other covenants) the covenant that the lessee or his assigns—

(1) Shall not erect or permit to be erected on the demised premises any building other than the building therein mentioned;

(2) That if any building is erected in violation of the covenant the lessee or his assigns will remove it;

(3) That the lessee and his assigns, or the occupant or occupants, tenant or tenants, of the demised premises, shall not at any time during the said term carry on or permit or suffer to be carried on within the dwelling house or tenements, or any part thereof, any trade or business whatsoever;

(4) Or convert the said dwelling house or tenements, or any part thereof, into a shop or shops, warehouse or storehouse, or otherwise attempt to carry on any trade or business on the said demised land or any part thereof;

(5) Or suffer or permit the said land or buildings to be occupied or used for any object or purpose whatever other than for said dwelling house and premises;

(6) Or for any purpose which shall prejudicially affect the value of the same or that of the neighboring lands and buildings.

The letter from the Minister of Public Works states:

(1) That it is not the intention of the Government to make any change in the exterior of the garage;

(2) That the only alteration to the residence is to make a small extension of the present kitchen to provide a hearing room for the Ontario Railway and Municipal Board;

(3) To make provision for a vault for the records;

(4) That these alterations will not impair the appearance of the building, which will retain its character as a residential building;

(5) That the Government propose to use this building exclusively for the Ontario Railway and Municipal Board temporarily until such time as a departmental building is erected.

The letter from the Deputy Minister states:

(1) That the garage will not be for the daily use of many cars;

(2) That it will be used principally for the storage of cars during the winter season and at other times;

(3) That no extension of the garage building is contemplated;

(4) That its use by the Government will not be any greater than when the house was occupied as a residence;

(5) That the covenants of the lease will be observed in essence;

(6) That the character of the building will not be changed;

(7) That the house and grounds will be maintained in keeping with its position in the Park,

(8) That nothing will be done which will prejudicially affect the value of the neighboring lands and buildings.

(9) That the site was selected for the temporary use of the Ontario Railway and Municipal Board because of its proximity to the Parliament Buildings containing the Library and other departments to which the members make frequent reference;

(10) That the offer to purchase the rear of 47 Queen's Park is evidently made through some apprehension that the garage will be operated in a manner which will be disturbing to the quiet of the neighborhood.

The intention which is stated in these letters is inconsistent with and would be a derogation from the covenants contained in the lease, and the owners and lessees of the property in the vicinity of 47 Queen's Park complain of any such conversion of the private residence into public use, or of the extension of the garage.

The question in which I am as Secretary for the Committee interested at the present time is whether the offer which I have made, namely, that the lessees will consent to a reasonable temporary public use of the private residence upon the understanding and condition that the consent will not interfere with, affect or prejudice the rights or obligations under any of the leases, will be acceptable to the Minister.

The offer which was made to purchase the rear portion of No. 47 Queen's Park and to undertake the payment of the proportionate rent and the payment of the proportionate taxes, and the removal of the garage altogether, was made for the sake of peace and in the hope of reconciling possible differences between the owners and lessees and the assignee under the lease.

I have taken notice of the following clause in your letter, namely:

"I am advised that section 15 of the University Act does not take the power from the Minister of Public Works to expropriate the land for the public use of the Province—the section is limited to the right of its appropriation by municipal or other corporations or persons."

I therefore quote section 15 from the statute:

"15. (1) The real property vested in the Board shall not be liable to be entered upon, used or taken by any municipal or other corporation, or by any persons possessing the right of taking land compulsorily for any purpose, and no power to expropriate real property hereafter conferred shall extend to such real property unless in the Act conferring the power it is made in express terms to apply thereto."

I stated in my letter of October 2nd to the Minister that no notice had been given to and no consent had been requested from any of the lessees represented at the meeting for any derogation from or any waiver of the terms and conditions of the residential leases—and I do not suppose that anyone would claim that an assignee under the original lease to Reuben Millichamp would have any higher right than Reuben Millichamp would have.

I also cited in the same letter Section 22 of the University Act, which confers the power on the Board to purchase and acquire all such property as the Board may deem necessary for the purposes of the University or University College, or either of them, and this power shall include that of purchasing the interest of any lessee for the use of the students of the University or University College.

The Board has not exercised any such power, and I have not been informed of any power of the Minister to purchase a leasehold—to take an assignment of a current standard residential lease—to intend to derogate, and to derogate, from the covenants contained in the lease, and to convert a residence into a public office and establish a garage.

I dissent on behalf of the owners and lessees from the opinions expressed in the letters from the Minister and from the Deputy Minister in regard to the conversion of the residence into public offices and the establishment of the garage.

The owners and lessees have engaged well qualified real estate valuers, and they know that a conversion of the residence into public offices and an extension of the garage will cause a serious depreciation in the value of the surrounding and neighboring lands and buildings.

The residential leases contain an implied covenant for quiet enjoyment under the lease—and a perpetual right of renewal until the interest of the lessee may be acquired for the use of the students of the University or University College.

I shall be pleased to hear from you in the usual course of mail whether you will consent to the offer which has been made for the temporary use of the residence for public purposes.

Yours faithfully,

J. A. THOMPSON.

TORONTO, 4th November, 1920.

R. P. FAIRBAIRN, Esq.,
Deputy Minister of Public Works,
Toronto.

DEAR SIR:

Re 47 Queen's Park.

I have not received an acknowledgment of my letter of 22nd October last delivered to you, and I therefore repeat the dissent therein contained on behalf of the owners and lessees from the opinions which are expressed in the letters I received from the Minister and from you in regard to the breach and violation of the covenants contained in the original lease.

I quoted in my former letter from these covenants, and I respectfully request your further consideration of them.

And I now quote from the assignment from J. P. Northey, as assignor, and His Majesty the King, represented by the Minister of Public Works, as assignee. This assignment is made "subject to the payment of the rent and performance of the lessees, covenants and agreements in the said assignment of lease, reserved and contained." And the said Assignee (meaning His Majesty the King represented by the Minister), did thereby for himself, his successors in office and assigns, covenant, promise and agree to and with the said Assignor, his heirs, executors and administrators, "that he, the said assignee, his successors in office or assigns, shall and will from time to time during all the residue of the said term granted by the said Indenture of Lease, and every renewal thereof, pay the rent and perform the Lessee's covenants and agreements therein respectively reserved and contained."

And I now quote from the indenture of consent made between the Governors of the University of the first part, and His Majesty the King, represented by the Minister, of the second part. This indenture contains the proviso "that the said lease and all its terms are to be taken as valid and subsistent and in no respect affected by this indenture save as mentioned herein." And the said party of the second part (meaning His Majesty the King, represented by the Minister) "did thereby for himself and his assigns covenant with the said parties of the first part, their successors and assigns, to pay the rent

"due under and by virtue of the said lease and to observe
"and perform the lessee's covenants and agreements in
"the said indenture of lease contained."

I mentioned in my letter of 2nd October last to the Minister that the leases of these lots are all in the same standard form of residential leases, and the honor and good faith of the Government, of the Governors of the University, and of all the lessees of all these building sites with frontage on the roadway, and of any assignee under a lease, are pledged to the observance and performance of the terms and conditions therein mentioned.

The present complaint is that the said covenants on the part of His Majesty the King, represented by the Minister, and covenanted to be observed and performed, have been broken and violated; that the work and labor of conversion of the residential leasehold into a public office leasehold has been in part carried out; and that the stable has been in part converted into a storage place for cars.

The reports of the real estate agents show that the value of the property in the vicinity of 47 Queen's Park has been and will be seriously depreciated by His Majesty the King, represented by the Minister, by the breach and violation of the said covenants which His Majesty the King, represented by the Minister, has covenanted to observe and perform.

I repeat the offer in my former letter, namely, that I will on my part be well pleased to facilitate a reasonable arrangement for the temporary public use of the residence upon the condition that the rights and obligations under the leases will not be violated or departed from until the land will be required by the Governors of the University for educational purposes.

Yours faithfully,

J. A. THOMPSON.

COPY OF LEASE

Copy.

[Approved, G. W. Ross, Minister of Education.]

THIS INDENTURE made in triplicate this seventeenth day of January, in the year of Our Lord One thousand eight hundred and eighty-seven. In pursuance of the Act respecting Short Forms of Leases. Between JOHN EDWARD BERKLEY SMITH, of the City of Toronto, Bursar of the University and Colleges at Toronto (hereinafter called "the Lessor") of the First Part, and REUBEN MILLICHAMP, of the same place, Merchant (hereinafter called "the Lessee") of the Second Part.

WHEREAS by the Consolidated Statutes of Upper Canada, chapter sixty-two, section sixty-six, the Bursar of the University and Colleges at Toronto was empowered to demise to the Corporation of the City of Toronto part of the lands of the said University for the purposes of a Park on the terms and conditions and in the manner in the said statute mentioned and provided.

AND WHEREAS a lease has been executed by the said Bursar in pursuance of the said statute.

AND WHEREAS the Chancellor, Vice-Chancellor and Senate of the University of Toronto did in the month of April, one thousand eight hundred and fifty-nine, petition His Excellency the Governor-General-in-Council that a certain portion of the land adjacent to the said Park so demised should be laid out in building lots and demised for the purpose of building thereon.

AND WHEREAS the prayer of the said petition has been granted and plans of the said ground as laid out into building lots have been approved of by the Executive Government, who have also approved of the covenants, clauses and conditions herein contained, and have instructed the Bursar as to the style and class of buildings to be erected on the said lots.

AND WHEREAS copies of the said plans of building lots are filed in the office of the said Bursar and are also registered in the Registry Office of the said City of Toronto.

NOW THIS INDENTURE WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the said Lessee, his executors, administrators and assigns to be paid, observed, done and performed, he, the said Lessor, as Bursar as aforesaid, and by virtue of authority legally

vested in him for that purpose hath demised and leased, and by these presents doth demise and lease unto the said Lessee, his executors, administrators and assigns, ALL AND SINGULAR those pieces or parcels of land and premises situate, lying and being within the limits of the said City of Toronto, forming part of the property commonly known as the University Park, which Park was originally composed of the North halves of Park lots numbers Eleven and Twelve and Thirteen, in the First Concession from the Bay in the Township of York, and which said piece or parcel of land hereby demised containing 49/100 of an acre more or less, and may be more particularly described as Lot number Thirty-seven, after deducting the southerly ten feet and the Northerly nine feet thereof on a Plan of a sub-division of part of said University Park, a copy of which Plan is filed in the Registry Office of the City of Toronto as Plan D. 178.

TO HAVE AND TO HOLD the same for and during the full period of forty-two years to be computed from the first day of July, one thousand eight hundred and eighty-six.

YIELDING AND PAYING therefor yearly and every year during the said term hereby granted unto the said Lessor, his successors in office or assigns, the sum of two hundred and forty-three dollars of lawful money of Canada to be payable by equal half-yearly instalments on the first days of the months of January and July in each and every year at the office of the said Lessor, his successors in office or assigns, such rental to commence from the said first day of July, and a proportionate part thereof to be payable on the first of the said gale days now next ensuing.

AND the said Lessee doth hereby for himself, his executors, administrators and assigns, covenant, promise and agree to and with the said Lessor, his successors in office and assigns, that he, the said Lessee, his executors, administrators or assigns, shall and will within twenty-four months after the date of these presents at his and their own costs and charges erect, construct, build and finish, fit for habitation on the said land hereby demised and upon that part thereof designated on the said plan of building lots now filed in the Bursar's office aforesaid, one good and substantial messuage or dwelling house with suitable out-buildings, all of brick or stone material, to cost at least eight thousand dollars of lawful money of Canada which said messuage or dwelling house and out-buildings shall be of brick or stone material and in so far as the elevations

thereof are concerned be built in accordance with the plans hereunto annexed, and the said elevations of the said messuage or dwelling house shall be faced with stone or white brick or with red pressed brick, such red pressed brick facing to have also cut stone or white pressed brick dressings, but no common red brick or field or lake stone shall be used for facing the walls of any buildings of any description to be erected on the said demised premises.

THAT the said Lessee covenants with the said Lessor to pay rent.

And to pay taxes, and to repair; and that the said Lessor may enter and view state of repair, and that the said Lessee will repair according to notice, its being agreed by the said Lessor and Lessee that the powers conferred by this covenant on the said Lessor shall extend to and be conferred on the successors in office and assigns of the said Lessor. And also that the said Lessee, his executors, administrators or assigns, shall not nor will during the said term assign, transfer, set over or sub-let, or otherwise by any act or deed procure the said premises or any part of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the said Lessor, his successors in office, or assigns, at had and obtained.

And the said Lessee doth hereby for himself, his executors, administrators and assigns, covenant, promise and agree with and to the said Lessor, his successors in office and assigns, that he, the said Lessee, his executors, administrators or assigns, shall not nor will erect or suffer or permit to be erected, put or placed upon the said demised premises any building or buildings whatsoever other than those hereinbefore mentioned and described, and that if and when and so often as any such building or buildings other than those hereinbefore mentioned and described shall during the said term be erected, put or placed upon the said demised premises or any part thereof, then the said Lessee, his executors, administrators or assigns, shall and will at his or their own costs and charges upon being notified so to do by the said Lessor, his successors in office or assigns, immediately pull down, demolish or remove the same and within twenty-four months thereafter at his or their own costs and charges, erect, construct, build and finish fit for habitation other buildings instead thereof in accordance with the said plans hereunto annexed; AND ALSO that the said Lessee, his executors, adminis-

trators or assigns, shall and will within the said period of twenty-four months from the date hereof at his or their own costs and charges, erect, construct and place a fence in front of the said demised premises, which fence shall be of such materials and shall be erected in accordance with such plans as the said Lessor, his successors in office, or assigns, shall approve of for that purpose.

VII
AND ALSO that he, the said Lessee, his executors, administrators or assigns, or the occupant or occupants, tenant or tenants of the said demised premises, from time to time, shall not nor will at any time during the said term carry on or permit or suffer to be carried on within the said messuage, dwelling-house or tenements so to be erected as aforesaid, or on any part of the same, any trade or business whatsoever, or convert the said dwelling-house or tenements, or any part thereof, into a shop or shops, warehouse or storehouse, or otherwise attempt to carry on any trade or business on the said demised land, or any part thereof, or suffer or permit the said lands or buildings to be occupied or used for any object or purpose whatever other than for said dwelling-house and premises, or for any purpose which shall in any way be deemed a nuisance, or which shall prejudicially affect the value of the same or that of the surrounding or neighboring lands and buildings.

ALSO that if at any time during the said term the said dwelling-house and buildings, or any of them, shall be injured, damaged or destroyed, whether by fire, wind, tempest, invasion of enemies of the Province, or otherwise howsoever, the said lessee, his executors, administrators or assigns shall and will at his or their own costs and charges within twenty-four months after the same shall be so injured, damaged or destroyed, repair, rebuild or reinstate the said dwelling-house and buildings in accordance with the said plans hereunto annexed or any improved or substituted plans which may be approved of by the said Lessor, his successors in office, or assigns; but it is hereby provided that the yearly rent hereby reserved and every part thereof shall be paid as hereinbefore provided notwithstanding any such injury or damage to or destruction of the said dwelling-house and buildings as aforesaid.

Proviso for re-entry by the said Lessor on non-payment of rent or non-performance of covenants, it being agreed

by the said Lessor and Lessee that the powers conferred by this proviso on the said Lessor shall extend to and be conferred on the successors in office and assigns of the said Lessor.

PROVIDED ALWAYS, and it is hereby agreed by and between the said Lessor and Lessee that at the expiration of the said term of forty-two years the said Lessee, his executors, administrators or assigns, shall have the privilege of receiving a renewal of this lease for the further period of twenty-one years longer, and so on for every twenty-one years perpetually, the rent to be payable for the said demised premises during any such renewal term of twenty-one years to be such sum as the said Lessor, his successors in office or assigns, and the said Lessee, his executors, administrators or assigns, shall agree upon; but in the event of their not being able to agree upon the amount of such rent, then the same shall be determined by two arbitrators, one to be chosen by each party, who, if they cannot agree, shall appoint a third arbitrator, and the award in writing of the majority of the said arbitrators (which shall be made and published within one calendar month from the date of the appointment of the arbitrator last appointed) fixing the amount of the said rent for the then next ensuing period of twenty-one years, shall be binding and conclusive on all parties; the costs of such arbitration to be borne by both parties in equal shares, and in case either of the said parties shall neglect or refuse for the space of fourteen days after being thereunto required in writing by the other party to nominate an arbitrator, then the arbitrator nominated by the party not so neglecting or refusing shall alone determine the said rent, and his award in writing (to be made and published within two calendar months from the date of his appointment) shall be binding on both parties, but in the valuation and appraisement of the said rent for any such renewal term the same shall be calculated as ground rent of a block or parcel of land situated as the said demised premises are situated without reference to any buildings, tenements, houses, or erections thereon.

AND the said renewal lease shall be drawn and prepared at the cost and charges of the said Lessee, his executors, administrators or assigns, and shall contain the like covenants, provisoes and agreements as are herein contained, including this present agreement for renewal and the plans hereto annexed, or exact copies thereof, or other improved or substituted plans approved of by the said

Lessor, his successors in office or assigns, shall be annexed to the said renewal lease.

IN WITNESS WHEREOF the said Lessor has hereunto set his hand and affixed his seal of office, and the said Lessee has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered

In the presence of:

G. A. STIMSON.

J. E. BERKELEY SMITH,

Bursar. [SEAL]

R. MILLICHAMP.

ASSIGNMENT OF LEASE

THIS INDENTURE made in duplicate this First day of September, A.D. 1920.

BETWEEN:

JOHN PELL NORTHEY, of the City of Toronto, in the County of York, Manufacturer, hereinafter called the Assignor,

Of the First Part;

AND

HIS MAJESTY THE KING, represented herein by the Honourable the Minister of Public Works and Highways for the Province of Ontario, hereinafter called the Assignee,

Of the Second Part.

WHEREAS by Indenture of Lease dated the Seventeenth day of January, 1887, made between J. E. BERKELEY SMITH, of the City of Toronto, Bursar of The University of Toronto, Lessor, and REUBEN MILLICHAMP, of the said place, Merchant, Lessee, the said Lessor did demise and lease unto the said Lessee, his executors, administrators and assigns the lands hereinafter mentioned for and during the term of forty-two years from the First day of July, 1886, at a rental and subject to the covenants and conditions therein contained;

AND WHEREAS by "The University Act 1906" being now "The University Act," Chapter 279 of the Revised Statutes of Ontario, 1914, all the right, title and interest of the said Bursar in the said lands and premises and in

the said lease became vested in the Governors of the University of Toronto.

AND WHEREAS the said lease provided that the Lessee named therein, his executors, administrators and assigns, should have the right of renewal of the said lease for a further term of twenty-one years perpetually upon the terms and conditions therein set forth.

AND WHEREAS the said leasehold land and term of years by various mesne assignments thereof became vested in the above named Assignor.

AND WHEREAS the above named Assignor has contracted with the Assignee for the sale to him of the said leasehold property hereinafter described and intended to be hereby assigned together with all the messuages, dwelling house and other erections and buildings thereon erected.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of twenty-nine thousand dollars of lawful money of Canada now paid by the Assignee to the said Assignor (the receipt thereof is hereby acknowledged) the said Assignor doth hereby grant and assign unto the said Assignee ALL AND SINGULAR the said in part recited Indenture of Lease and the lands therein described, being:

ALL AND SINGULAR those certain parcels and pieces of land and premises situate, lying and being in the said City of Toronto and forming part of the property commonly known as University Park, which Park was originally composed of the north halves of Park lots 11, 12 and 13 in the first concession from the Bay in the Township of York and which said piece or parcel of land hereby demised, containing 49/100 of an acre, more or less, may be more particularly described as Lot Number Thirty-seven (after deducting the southerly ten feet and northerly nine feet thereof) on plan of a subdivision of part of said University Park, a copy of which plan is filed in the Registry Office of the said City of Toronto as Plan D. 178, TOGETHER WITH the said messuages, dwelling-house and tenements and all other erections and buildings on the said lands erected and being, and the rights, easements, members and appurtenances thereto belonging or commonly known, used or enjoyed as part or parcel thereof, or as appertaining thereto, together with the said in part recited Indenture of Lease, and all the estate, right, title, term of years to come and unexpired right of renewals, claim and demand whatsoever of him the said Assignor,

of, into and out of the said demised land and premises to hold the said premises unto the said Assignee, his successors in office and assigns henceforth for all the residue of the term thereby granted and for all other the estate, term and interest of the said Assignor therein (including the right of renewal), **subject to the payment of the rent and performance of the Lessee's covenants and agreements in the said Indenture of Lease reserved and contained.**

AND THE said Assignor does hereby, for himself, his heirs, executors and administrators covenant with the said Assignee, his successors in office and assigns, in manner following that is to say: That notwithstanding any act of the Assignor the said hereinbefore in part recited Indenture of Lease is at the time of the sealing and delivery of these presents a good valid and subsisting lease in the law and not surrendered, forfeited or become void or voidable and that the rents and covenants therein reserved and contained have been duly paid and performed by the Assignor up to the day of the date hereof;

AND THAT notwithstanding as aforesaid the said Assignor now has in himself good right full power and absolute authority to grant, bargain, sell and assign the said lands and premises in manner aforesaid and according to the true intent and meaning of these presents;

AND THAT subject to the said rent and the Lessee's covenants and agreements to the said Lessor contained, it shall be lawful for the Assignee, his successor in office and assigns to enter into and upon and hold and enjoy the said premises for the residue of the term granted by the said Indenture of Lease and every renewal thereof (if any) for his or their own use and benefit without the let, suit, hindrance, interruption or denial of the said Assignor, his heirs, executors, administrators or assigns or any other person whomsoever and that free and clear and freely and clearly acquitted, by and at the expense of the said Assignor, his heirs, executors and administrators well and effectively saved defended and kept harmless of, from and against all former and other gifts, grants, bargains, sales, leases and other incumbrances whatsoever.

AND THAT the said Assignor, his heirs, executors, administrators and assigns and all other persons claiming any interest in the said premises shall and will from time to time and all times hereafter at the request and costs of the said Assignee, his successors in office or assigns make do and execute or cause and procure to be made done and

executed all such further assignments and assurances in the law of the said premises for more effectually assigning and assuring the said premises for the residue of the said term and every renewal thereof as by the said Assignee, his successors in office and assigns or his or their counsel in the law shall be reasonably advised or required;

AND THE said Assignee doth hereby for himself his successors in office and assigns covenant, promise and agree to and with the said Assignor, his heirs, executors and administrators, that he the said Assignee, his successors in office or assigns shall and will from time to time during all the residue of the said term granted by the said Indenture of Lease and every renewal thereof pay the rent and perform the Lessee's covenants and agreements therein respectively reserved and contained and indemnify and save harmless the said Assignor, his heirs, executors and administrators therefrom and from all actions, suits, costs, losses, charges, damages and expenses thereof.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals this 31st day of August, 1920.

SIGNED, SEALED AND DELIVERED
In the presence of

A. S. WINCHESTER.

J. P. NORTHEY.

[SEAL]

**CONSENT OF GOVERNORS OF UNIVERSITY
TO ASSIGNMENT OF LEASE**

This Indenture made in triplicate the 17th day of
September, A.D. 1920.

BETWEEN:

**THE GOVERNORS OF THE UNIVERSITY OF
TORONTO,**

Of the First Part;

AND

**HIS MAJESTY THE KING, represented for the
purpose by the Honourable the Minister of
Public Works of the Province of Ontario,**

Of the Second Part.

WHEREAS by Indenture of Lease on or about the 17th day of January, 1887, and made between J. E. BERKLEY SMITH, the Lessor, of the first part, and REUBEN MILLICHAMP, the Lessee, of the second part, the said Lessor did demise and lease unto the said Lessee therein named his executors, administrators and assigns the following lands and premises, being ALL AND SINGULAR those certain pieces and parcels of land and premises situate, lying and being in the said City of Toronto and forming part of the property commonly known as the University Park, which park was originally composed of the north half of lots 11, 12, and 13 in the first concession from the Bay in the Township of York and which said piece or parcel of land hereby described contains 49/100 of an acre more or less, and may be more particularly described as Lot No. 37 after deducting the south feet and the north 9 feet thereof, on Plan of a ion north of part of said University Park, a copy of n plan is filed in the Registry Office of said City of Toronto as Plan No. D-178, on the terms and conditions set forth in said Lease for a term of 42 years from the First of July, 1886;

AND WHEREAS the said leasehold lands thereafter became vested in one Frederick George Cox who has since died, having appointed by his last Will and Testament the National Trust Company, Limited, his Executors and Trustees.

AND WHEREAS by a certain Indenture bearing date the 4th day of September, 1907, the said Executors and Trustees assigned to John Pell Northey, of the City of

Toronto, Manufacturer, the said lands and the said leasehold term affecting the said lands and all other; estate and right of renewal and interest of the Assignors therein, subject to the rights and interests of parties hereto of the first part;

AND WHEREAS it is provided in and by the said Indenture of Lease that the said lease cannot be assigned without the consent of the said Lessor or his successors in office;

AND WHEREAS by a certain Indenture bearing date the 1st day of September, 1920, the said John Pell Northey, of the City of Toronto, in the County of York, Manufacturer, has assigned to the said Party hereto of the second part, the said lands and the said leasehold term affecting the said lands and all other; estate and right of renewal and interest of the said John Pell Northey therein subject to rights and interests of the parties hereto of the first part;

AND WHEREAS in and by a certain Act passed in the Sixth year of the Reign of His Majesty King Edward VII, Chapter 55, and entitled "The University Act 1906," the said lands and the said lease and all the interest of the said Lessor and his assigns were vested in the said parties of the first part, the Governors of the University of Toronto, and the said Governors have been desired by the said party of the second part to consent to the assignment of the said Lease to him which consent the said Governors have agreed to give.

NOW THEREFORE this Indenture witnesseth that the said parties of the first part do hereby consent to the said recited assignment of lease but such consent is not to be deemed or taken to be a general waiver of the covenant in the said lease contained, "not to assign or sublet without leave."

PROVIDED always and it is hereby distinctly understood and agreed by and between the parties hereto that this consent is given on the express understanding that the party of the second part will not assign or sub-let without containing the consent in writing of the parties of the first part, their successors in office or assigns.

PROVIDED also the said Lease and all its terms are to be taken as valid and subsistent and in no respects affected by this Indenture save as mentioned herein.

AND the said party of the second part hereby for himself and his assigns covenants with the said parties of the first part, their successors and assigns to pay the rent due under and by virtue of the said lease and to observe and perform the Lessee's covenants and agreements in the said Indenture of Lease contained.

IN WITNESS WHEREOF the said parties of the first part have hereunto affixed their corporate seal and the hands of their Chairman and Bursar have hereunto been duly set and the party of the second part has also hereunto set his hand and seal.

**UNIVERSITY
[SEAL].**

**B. E. WALKER,
Chairman.**

**F. A. MOURE,
Bursar.**

**DEPT. PUBLIC WORKS
[SEAL].**

**F. C. BIGGS,
Minister of Public Works.**

